

REPORTING DEATHS OR INJURIES ON A FAMILY FARM

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<http://www.house.mi.gov/hfa>

House Bill 4011 as introduced

Sponsor: Rep. Jerry Neyer

Committee: Agriculture

Complete to 10-10-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4011 would amend the Michigan Occupational Safety and Health Act to change requirements and penalties for an employer report of a death or injury on a family farm.

Under Michigan Occupational Safety and Health Administration (MIOSHA) Administrative Standard Part 11 (Recording and Reporting of Occupational Illnesses and Injuries),¹ an employer must report to MIOSHA any in-patient hospitalization, amputation, or loss of an eye within 24 hours of a work-related incident. Rule R 408.22139(1) requires an employer, within eight hours after the death of any employee from a work-related incident, to report the fatality to MIOSHA by telephone.

The bill would provide that, if a death or injury occurs on a *family farm* to the owner of the family farm or a *family member* of the owner, and if the employer fails to report the death or injury within the current required time periods, a civil penalty or fine assessed against the employer would have to be reduced by the maximum amount allowed under either the act or a rule issued under the act.

Family farm would mean a farming operation (including a sole proprietorship, partnership, or corporation) that meets all of the following conditions:

- It is wholly owned by the operator or by the operator's family members.
- During the immediately preceding 12-month period, all of the following conditions were met:
 - More than 50% of the employees of the farming operation were family members of its owner or operator.
 - The farming operation did not employ at any one time more than nine employees who were not family members of its owner or operator.
 - The farming operation did not operate a temporary labor camp.

The term *family farm* would *not* include either of the following:

- A farming operation organized as a nonfamily corporation or cooperation.
- A farming operation with a hired manager who is not a family member of the owner or operator of the farming operation.

Family member would mean a member of the family as defined by section 4946(d) of the Internal Revenue Code.²

MCL 408.1035

¹ https://www.michigan.gov/leo/-/media/Project/Websites/leo/Documents/MIOSHA/Standards/Administrative/ADM_11/ADM_11_09-16-2021.pdf

² 26 USC 4946: "the family of any individual shall include only [the individual's] spouse, ancestors, children, grandchildren, great grandchildren, and the spouses of children, grandchildren, and great grandchildren."

BACKGROUND:

House Bill 4011 is identical to House Bill 4031 of the 2021-22 legislative session, which was passed by both houses and enrolled, but vetoed by the governor on February 4, 2022.

Governor Whitmer noted in her veto message that current MIOSHA policies allow the agency to reduce fines on family farms by up to 90% when employers cooperate with MIOSHA investigations, while the bill would require a reduction for certain family farms in all cases, “even when the employer makes no effort to timely cooperate with an investigation.” The governor vetoed the bill based in part on her belief that the law “should not require the agency to waive fines for employers that do not cooperate in good faith.” In addition, the governor argued that the bill’s definition of the term “family farm” was inconsistent with federal OSHA policies in a way that could lead to confusion and possible state noncompliance with federal requirements.

FISCAL IMPACT:

House Bill 4011 would have an indeterminate fiscal impact on the state and no fiscal impact on local units of government. It is not possible to determine the number of deaths or injuries that would occur on a family farm to the owner or a family member, nor to know the number of civil penalties or fines that would subsequently be reduced under the bill. Any decrease in the amount of civil fine revenue collected would impact the state general fund, because under section 36 of the Michigan Occupational Safety and Health Act, civil penalty revenue that is collected is required to be credited to the state general fund.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.